

**CIVIL CASE INFORMATION STATEMENT  
CIVIL CASES  
In the Circuit Court, Raleigh County, West Virginia**

**I. CASE STYLE:**

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**Plaintiff/Petitioner,**

**Case # 16-C-230**

**STATE OF WEST VIRGINIA ex rel.  
PATRICK MORRISEY,  
ATTORNEY GENERAL,**

**Judge** *Hutchison*

**v.**

**Defendants/Respondents.**

**Days to  
Answer**

**Type of Service**

**CURERX LLC,  
AKA CURE PHARMACY  
1812 State Hill Drive  
Wyomissing, PA 19610-1604**

**30**

**Secretary of State**

**CHRIS ROTHE,  
Member and manager of CureRX LLC  
P.O. Box 538  
Draper, Utah 84020-0538**

**30**

**Secretary of State**

RALEIGH COUNTY  
RECEIVED AND FILED  
2016 APR 15 P 2:24  
PAUL H. FLANAGAN  
CIRCUIT CLERK \_\_\_\_\_

Original and \_\_ copies of complaint furnished herewith.

(Continued On Next Page)

**PLAINTIFF: STATE OF WEST VIRGINIA ex rel.  
PATRICK MORRISEY, ATTORNEY GENERAL  
DEFENDANTS: CURERX LLC, et al.**

**CASE NUMBER:**

**II. TYPE OF CASE:**

<b>TORTS</b>	<b>OTHER CIVIL</b>

<b>Asbestos</b>	<b>Adoption</b>	<b>Appeal from Magistrate Court</b>
<b>Professional Malpractice</b>	<b>Contract</b>	<b>Petition for Modification of Magistrate Sentence</b>
<b>Personal Injury</b>	<b>Real Property</b>	<b>x Miscellaneous Civil</b>
<b>Product Liability</b>	<b>Mental Health</b>	<b>Other</b>
<b>Other Tort</b>	<b>Appeal of Administrative Agency</b>	

**III. JURY DEMAND:** Yes No X

**CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR):** N/A

**IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?**

YES NO X

**IF YES, PLEASE SPECIFY:**

Wheelchair accessible hearing room and other facilities  
Interpreter or other auxiliary aid for the hearing impaired  
Reader or other auxiliary aid for the visually impaired  
Spokesperson or other auxiliary aid for the speech impaired  
Other: \_\_\_\_\_

**Attorney Name:** R. Stephen Jarrell, Assistant Attorney General  
(State Bar No. 67878)

**Firm:** State of West Virginia, Attorney General's Office

**Address:** Post Office Box 1789, Charleston, WV 25326-1789

**Telephone:** (304)558-8986

**Representing:**

**X** Plaintiff/Petitioner Defendant

Cross-Complainant Cross-Defendant

**Dated:**

4/15/14

R. S. Jarrell  
Signature

Pro Se

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, ex rel.  
PATRICK MORRISEY,  
Attorney General,

Plaintiff/Petitioner,

v.

CIVIL ACTION NO. 16-C-230  
JUDGE \_\_\_\_\_

CURERX LLC, AKA CURE PHARMACY  
a Pennsylvania limited liability company, and  
CHRIS ROTHE, member and manager  
of CureRX LLC,

Defendants/Respondents.

COMPLAINT FOR INJUNCTION, CONSUMER  
RESTITUTION, DISGORGEMENT, CIVIL PENALTIES,  
AND OTHER APPROPRIATE RELIEF

RALEIGH COUNTY  
RECEIVED AND FILED  
2016 APR 15 P 2:24  
PAUL H. FLANAGAN  
CIRCUIT CLERK

Plaintiff, the State of West Virginia ex rel. Patrick Morrissey, Attorney General ("the State" or "Attorney General"), files this Complaint asking the court to temporarily and permanently enjoin the above-named Defendants, CureRX, LLC also known as Cure Pharmacy and Chris Rothe, from violating the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code § 46A-1-101 *et seq.*, and other applicable consumer protection laws and regulations, and to enter a final order awarding the State all other appropriate relief as authorized by W. Va. Code § 46A-7-108.

**I. PARTIES**

1. Plaintiff Patrick Morrissey is the Attorney General of the State of West Virginia and is empowered to enforce the provisions of the WVCCPA, W. Va. Code § 46A-1-101 *et seq.*, including the provisions that govern the sale and financing of consumer goods and services.

2. Defendant CureRX, LLC also known as Cure Pharmacy (hereinafter “Cure”) is a limited liability company incorporated, organized and registered in the Commonwealth of Pennsylvania where its principal place of business is listed at 1812 State Hill Drive, Wyomissing, PA, 19610-1604.

3. Chris Rothe (“Rothe”) is and was the sole member and manager of Cure at all times pertinent hereto. Upon information and belief, he runs the day-to-day operations of the company.

4. Rothe is a resident of Utah, with a last known mailing address of PO Box 538, Draper, Utah 84020-0538.

5. As manager of Cure, Rothe has the authority and duty to set policies and practices for that corporation.

6. Rothe has managed and controlled the day-to-day business operations of Cure during the relevant time period.

7. Rothe participated in, approved of, sanctioned, or ratified the marketing, sales, and financing practices of Cure.

8. To adhere to the fiction of a separate corporate existence between the defendants Rothe and Cure would sanction and promote injustice. Accordingly, Rothe and Cure will hereinafter be referred to collectively as “Cure.”

## **II. JURISDICTION AND VENUE**

9. This court has jurisdiction to hear this matter pursuant to Article VIII, Section 6 of the West Virginia Constitution. W. Va. Code § 51-2-2, and W. Va. Code § 53-5-3.

10. Venue is proper in this court pursuant to W. Va. Code § 46A-7-114 and W. Va. Code § 56-1-1(a)(6).

### **III. PROCEDURAL FACTS**

11. Cure is a pharmaceutical company located in Pennsylvania that supplies pharmaceutical drugs and supplies to consumers.

12. Consumers received prescriptions and orders from Cure that the consumers had not ordered. Many of these orders were in bulk or large amounts.

13. Cure obtained West Virginia consumers' names, phone numbers and private health information, then unlawfully used this information to deceptively get consumers' prescriptions transferred to it.

14. Doctors also started receiving faxes from Cure that were an order form to change the pharmacy fulfilling consumer prescriptions.

15. On many occasions these prescription changes were done without any authorization from the consumer.

16. Authorization for some prescriptions was obtained by unfair and deceptive means.

17. These prescription transfers caused financial hardship for many West Virginia consumers insofar as some prescriptions were not filled in such a way as to maximize consumers' health benefits through insurance and state medical programs.

18. Cure obtained some of this personal consumer information when consumers completed forms, surveys and other questionnaires online.

19. Each fact forming the basis of the allegations set forth in Paragraphs 11 through 18 have occurred at least within the last four years next preceding the filing of this complaint.

## **V. CLAIMS FOR RELIEF**

### **FIRST CAUSE OF ACTION**

20. The State reasserts each and every allegation hereinabove in the Complaint as if set forth fully herein.

21. Cure created a scheme whereby consumers' prescriptions were transferred to Cure without the consumers' knowing and informed consent thereby causing confusion and misunderstanding as to the source of goods or services.

22. This conduct is an unfair or deceptive act or practice as defined by W. Va. Code § 46A-6-102(7)(B), (L), and (M) and violates W. Va. Code § 46A-6-104.

### **SECOND CAUSE OF ACTION**

23. The State reasserts each and every allegation hereinabove in the Complaint as if set forth fully herein.

24. Cure created a scheme whereby consumers received prescriptions from sources that were more expensive than the prescriptions would be if their prescriptions had not been transferred.

25. This conduct is an unfair or deceptive act or practice as defined by W. Va. Code § 46A-6-102(7)(L), and (M) and violates W. Va. Code § 46A-6-104.

### **THIRD CAUSE OF ACTION**

26. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

27. Cure faxed forms to consumers' doctors that purported to transfer consumers' prescriptions to Cure, when, in fact, consumers had not given informed consent to any transfer.

28. This conduct is an unfair or deceptive act or practice as defined by W. Va. Code § 46A-6-102(7)(L), and (M) and violates W. Va. Code § 46A-6-104.

## **VI. INJUNCTIVE RELIEF**

29. The State reasserts each and every foregoing allegation in this Complaint as if set forth fully herein.

30. Pursuant to the West Virginia Consumer Credit and Protection Act, including notably W. Va. Code § 46A-7-108 through -110, the State seeks to temporarily and permanently enjoin the Defendants/Respondents from any ongoing current violations as well as prohibit similar unlawful conduct in the future.

31. The State also seeks an immediate temporary injunction restraining the Defendants/Respondents from soliciting, marketing, selling pharmaceutical supplies in the State of West Virginia and further prohibiting the Defendants/Respondents from collecting or attempting to collect any amounts alleged to be due from West Virginia consumers until such time as this Court may make a final determination in this matter.

## **VII. PRAYER FOR RELIEF**

WHEREFORE, the State requests that the Court grant the following relief against the Defendants/Respondents:

### **Temporary Relief**

That this Court schedule a hearing on this petition for preliminary injunction and enter an order that:

1. Temporarily restrains the Defendants/Respondents from engaging in the sale of consumer goods in the State of West Virginia until such time as this matter is resolved.

2. Temporarily restrains the Defendants/Respondents from using any state court to enforce or collect debts or enforce any other obligations arising from transactions between Defendants/Respondents and West Virginia consumers.

3. Temporarily restrains the Defendants/Respondents from contacting West Virginia consumers or taking any other actions to collect money alleged to be due in connection with any transactions between Defendants/Respondents and West Virginia consumers.

4. Requires the Defendants/Respondents provide the State with a list containing the names and addresses of West Virginia consumers with whom it entered into transactions from the time it began conducting business in the State of West Virginia and the present and that this list include the consumers' purchases and the amounts consumers were charged.

#### **Permanent Relief**

The State further requests that, upon a final hearing, this Court grant the following permanent relief:

1. An Order declaring the Defendants/Respondents' conduct, as described herein, to be in violation of the WVCCPA;

2. Upon a finding that the Defendants/Respondents have violated the provisions of the WVCCPA, an Order declaring all transactions between Defendants/Respondents and West Virginia consumers unenforceable;

3. Upon a finding that the Defendants/Respondents have violated the provisions of the WVCCPA, an Order requiring that the Defendants/Respondents be required to provide full refunds to all West Virginia consumers with whom it transacted business;



4. An Order requiring the Defendants/Respondents to pay the State of West Virginia a civil penalty of Five Thousand Dollars (\$5,000.00) for each and every violation of the Act, pursuant to W. Va. Code § 46A-7-111(2), and further requiring that said sum shall be used at the discretion of the Attorney General for any one or more of the following purposes: direct and indirect administrative, investigative, compliance, enforcement or litigation costs and services incurred for consumer protection purposes; to be held for appropriation by the Legislature; and/or distribution to taxpayers and/or consumers.

5. An Order requiring that the funds for the refunds and civil penalties be paid to the State within ten (10) days of the entry of the order.

6. And such other relief as this court may deem just and proper.

Respectfully submitted,

STATE OF WEST VIRGINIA ex rel.  
PATRICK MORRISEY,  
ATTORNEY GENERAL, Petitioner

By Counsel



R. STEPHEN JARRELL (WV State Bar # 6787)  
ASSISTANT ATTORNEY GENERAL  
Consumer Protection/Antitrust Division  
P.O. Box 1789  
Charleston, WV 25326-1789  
Telephone: (304) 558-8986

VERIFICATION

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, TO-WIT:

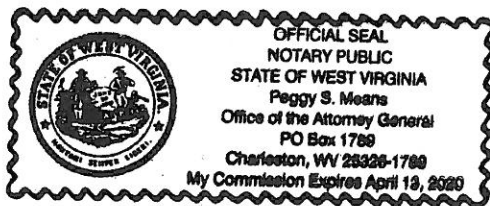
I, R. Stephen Jarrell, Assistant Attorney General, being duly sworn, depose and say that I am the counsel of record for Plaintiff/Petitioner in the foregoing styled civil action; that I am familiar with the contents of the foregoing **COMPLAINT FOR INJUNCTION, CONSUMER RESTITUTION, DISGORGEMENT, CIVIL PENALTIES, AND OTHER APPROPRIATE RELIEF** and that the facts and allegations contained therein are true, except such as are therein stated upon information and belief, and that as to such allegations I believe them to be true.

*R. St Jarrell*

R. STEPHEN JARRELL (WV State Bar # 6787)  
ASSISTANT ATTORNEY GENERAL

Taken, subscribed, and sworn to before me in the County and State aforesaid this 15<sup>th</sup> day of April, 2016.

My commission expires April 13, 2020



*Peggy S Means*  
NOTARY PUBLIC